



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5
77 WEST JACKSON BOULEVARD
CHICAGO, IL 60604-3590

APR 18 2006

REPLY TO THE ATTENTION OF

(AE-17J)

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Susan V. Harris
Sidley Austin LLP
One South Dearborn
Chicago, Illinois 60603

Dear Ms. Harris:

Enclosed is a file stamped Consent Agreement and Final Order (CAFO) which resolves violations at Cognis Corporation's Kankakee, Illinois facility, CAA Docket No.

CAA-05-2006-0022. As indicated by the filing stamp on its first page, we filed the CAFO with the Regional Hearing Clerk on APR 18 2006.

Pursuant to paragraph 53 of the CAFO, Cognis Corporation must pay the civil penalty within 30 days of APR 18 2006. Your check must display the case docket number, CAA-05-2006-0022, and the billing document number, 2750603A001.

Please direct any questions regarding this case to Reginald Pallesen, Associate Regional Counsel, (312) 886-0555.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bonnie Bush".

Bonnie Bush, Acting Section Chief
Air Enforcement and Compliance Assurance Section (MI/WI)

Enclosure

Protecting the environment is everyone's responsibility. Help EPA fight pollution by reporting possible harmful environmental activity. To do so, visit EPA's website at <http://www.epa.gov/compliance/compliants/index.html>

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

IN THE MATTER OF:

Cognis Corporation,

Respondent.

) Docket No. **CAA-05-2006-0022**

) Proceeding to Assess a Civil

) Penalty under Section 113(d) of the Clean

) Air Act, 42 U.S.C. § 7413(d)

U.S. ENVIRONMENTAL PROTECTION AGENCY
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REGION 5

Consent Agreement and Final Order

Preliminary Statement

1. This is an administrative action commenced and concluded under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d), and Sections 22.1(a)(2), 22.13(b), and 22.18(b) of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits* (Consolidated Rules) as codified at 40 C.F.R. Part 22 (2004).

2. Complainant is the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (U.S. EPA).

3. Respondent is Cognis Corporation (Cognis), a corporation doing business in the State of Illinois.

4. Where the parties agree to settle one or more causes of action before the filing of a complaint, the administrative action may be commenced and concluded simultaneously by the issuance of a Consent Agreement and Final Order (CAFO). 40 C.F.R. § 22.13(b) (2004).

5. The parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Cognis consents to entry of this CAFO and the assessment of the specified civil penalty, and agrees to comply with the terms of the CAFO.

Jurisdiction and Waiver of Right to Hearing

7. Cognis admits the jurisdictional allegations in this CAFO, and neither admits nor denies the factual allegations and the alleged violations set out in this CAFO.

8. Cognis waives its right to request a hearing as provided at 40 C.F.R. § 22.15(c), any right to contest the allegations in this CAFO, and its right to appeal this CAFO.

Statutory and Regulatory Background

9. Under Section 112 of the Act, the Administrator of U.S. EPA promulgated the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Pharmaceutical Production at 40 C.F.R. Part 63, Subpart GGG (the Pharma-MACT); the National Emission Standards for Organic Hazardous Air Pollutants for Equipment Leaks at 40 C.F.R. Part 63, Subparts F and H (the HON); and EPA Reference Method 21 at 40 C.F.R. Part 60 Appendix A.

10. The NESHAP for Pharmaceutical Production was proposed on September 21, 1998 and became final on September 21, 2001. The owner or operator of an existing affected source must comply with the provisions of the Pharma-MACT no later than October 21, 2002. 40 C.F.R. § 63.1250(f).

11. The NESHAP for Equipment Leaks was proposed on December 31, 1992 and became final on April 22, 1994. The Pharma-MACT incorporated certain Leak Detection and Repair (LDAR) provisions of the HON. In particular, the Pharma-MACT, at 40 C.F.R. § 63.1255(b),

referenced the HON standards for connectors in gas/vapor and light liquid service set out at 40 C.F.R. § 63.174.

12. The general NESHAP provisions provide at 40 C.F.R. § 63.4(a)(1) that no owner or operator subject to the provisions operate any affected source in violation of this requirement of this part except under an applicable extension of compliance.

13. The Pharma-MACT, at 40 C.F.R. §§ 63.1259(a) and 63.1260(I), requires a startup, shutdown and malfunction plan (SSMP) and, at 40 C.F.R. § 63.1256(a)(4), a maintenance wastewater plan (MWP) for affected sources.

14. The Pharma-MACT, at 40 C.F.R. §§ 63.1257(d) and 63.1260(f), requires compliance demonstrations for certain condensers at affected sources.

15. The Pharma-MACT, at 40 C.F.R. § 63.1259, requires recordkeeping for certain pharmaceutical production areas where Hazardous Air Pollutants (HAPs) are processed, used or produced.

16. The Pharma-MACT, at 40 C.F.R. § 63.1258(b)(1)(iv), sets out procedures for establishing operating parameters and requirements for monitoring such parameters for regenerative carbon adsorbers in use at affected sources.

17. The LDAR provisions of the Pharma-MACT and the HON apply to pumps, compressors, agitators, lines, valves, connectors, control devices, and closed vent systems that are intended to operate in organic Hazardous Air Pollutant service for 300 hours or more during the calendar year.

18. The Pharma-MACT, at 40 C.F.R. § 63.1255(a)(7), requires the owner or operator of an affected source to identify equipment subject to the LDAR Provisions such that it can be distinguished readily from equipment that is not subject.

19. The Pharma-MACT, at 40 C.F.R. § 63.1255(c)(5)(iv), requires the owner or operator of an existing affected source to check, by visual inspection, each pump/agitator for liquids dripping from the pump/agitator seal.

20. The Pharma-MACT, at 40 C.F.R. § 63.1255(e)(2), requires the owner or operator of an existing affected source to monitor all valves subject to the LDAR provisions by no later than one year after the compliance date.

21. The Pharma-MACT, at 40 C.F.R. § 63.1255(b)(4)(iii), requires the owner or operator of an existing affected source to monitor all connectors in gas/vapor and light liquid service pursuant to certain provisions of the HON at 40 C.F.R. § 63.174.

22. The HON, at 40 C.F.R. § 63.174(a), requires the owner or operator of an affected source to monitor all connectors in gas/vapor and light liquid service at the intervals specified in Section 63.174(b).

23. The Pharma-MACT, at 40 C.F.R. § 63.1255(e)(3), requires the owner or operator of an affected source to monitor all valves subject to the LDAR provisions at the intervals specified in Section 63.1255(e)(4).

24. The Pharma-MACT, at 40 C.F.R. § 63.1255(e)(4)(ii), requires the owner or operator of an affected source to monitor all valves within a group subject to the LDAR provisions once each quarter, based on a leak survey required by Section 63.1255(e)(2).

25. The Pharma-MACT, at 40 C.F.R. § 63.1255(e)(3)(I), requires the owner or operator of an affected source to monitor valves subject to the LDAR Provisions by the method specified in 40 C.F.R. § 63.180(b).

26. The HON, at 40 C.F.R. § 63.174(a)(1), requires the owner or operator of an affected source to monitor connectors subject to the LDAR Provisions by the method specified in 40 C.F.R. § 63.180(b).

27. The HON, at 40 C.F.R. § 63.180(b)(1), requires the owner or operator of an affected source to comply with the monitoring procedures and requirements of Method 21 of 40 C.F.R. Part 60, Appendix A.

28. The Administrator of U.S. EPA (the Administrator) may assess a civil penalty of up to \$27,500 per day of violation up to a total of \$220,000 for NESHAP violations that occurred from January 31, 1997 through March 15, 2004, and may assess a civil penalty of up to \$32,500 per day of violation up to a total of \$270,000 for violations that occurred after March 15, 2004 under Section 113(d)(1) of the Act, 42 U.S.C. § 7413(d)(1), and 40 C.F.R. Part 19 (2004).

29. Section 113(d)(1) of the Act limits the Administrator's authority to matters where the first alleged date of violation occurred no more than 12 months prior to initiation of the administrative action, except where the Administrator and Attorney General of the United States jointly determine that a matter involving a longer period of violation is appropriate for an administrative penalty action.

30. The Administrator and the Attorney General of the United States, each through their respective delegates, have determined jointly that an administrative penalty action is appropriate for the period of violations alleged in this CAFO.

Facts

31. Cognis Corporation owns and operates a chemical plant in Kankakee, Illinois, where it manufactures organic chemicals used as ingredients in three areas: specialty chemicals; health and nutrition products such as vitamin E; and personal care products. Vitamin E production takes place in Areas 17, 21, 23, 26, 34, 66, 68, 69, and 76 at the Cognis plant.

32. The vitamin E production line at the Cognis plant (except for Areas 23, 34 and 76) is subject to the NESHAP for Pharmaceuticals Production at 40 C.F.R. Part 63, Subpart GGG (Pharma-MACT) because: vitamin E is a pharmaceutical product within the meaning of the Pharma-MACT; the Cognis plant site is a major source as defined in Section 112(a) of the Clean Air Act; and Cognis processes, uses or produces HAPs in all areas of its vitamin E manufacturing process except for Areas 23, 34 and 76.

33. The vitamin E process in Area 21 at the Cognis plant is subject to the LDAR provisions of the Pharma-MACT and, by reference, certain provisions of the HON because Area 21 contains equipment operating in organic HAP service for more than 300 hours per year.

34. In September 2003, U.S. EPA conducted a Pharma-MACT compliance inspection at the Cognis plant.

35. On December 19, 2003, U.S. EPA issued a Finding of Violation (FOV) to Cognis alleging a number of Pharma-MACT violations discovered during the September 2003 inspection, including failure to have required plans, failure to perform certain compliance demonstrations on compressors, and failure to maintain records regarding HAPs in certain areas of the facility.

36. U.S. EPA subsequently received a Periodic Report from Cognis accounting for operations at the plant from March 2003 through September 2003.

37. Based on information in the Periodic Report, U.S. EPA issued a second FOV to Cognis on May 6, 2004, alleging that Cognis failed to keep the bed regeneration temperature of the regenerative carbon adsorber associated with the pharmaceutical manufacturing operations at the plant above the minimum required temperature on several occasions in the Summer of 2003, and failed to have required monitoring records for the carbon adsorber six times during that period.

38. In March 2004, U.S. EPA conducted a Leak Detection and Repair (LDAR) inspection of the Cognis plant to determine compliance with the Pharma-MACT and applicable provisions of the HON.

39. U.S. EPA issued a third FOV to Cognis on November 9, 2004, alleging various LDAR violations, including: failure to timely identify equipment on the vitamin E line subject to LDAR; failure to monitor certain valves and connectors subject to LDAR; and failure to properly monitor valves and connectors per the applicable EPA Reference Method 21.

Alleged Violations

40. Cognis failed to have a complete startup, shutdown and malfunction plan (SSMP) developed and implemented by the Pharma-MACT compliance date, in violation of 40 C.F.R. §§ 63.6(e)(3), 1259(a) and 1260(I).

41. Cognis failed to have a complete maintenance wastewater plan (MWP) developed and implemented by the Pharma-MACT compliance date, in violation of 40 C.F.R. § 63.1256(a)(4).

42. Cognis failed to perform initial compliance demonstrations for its process condensers in Area 21, in violation of 40 C.F.R. §§ 63.1257(d)(3)(iii)(B) and 63.1260(f)(3).

43. Cognis failed to have adequate records for Areas 17, 26, 66, 68, 69, and 76, in violation of 40 C.F.R. § 63.1259.

44. Cognis failed to perform compliance demonstrations on the condensers in Area 69, in violation of 40 C.F.R. § 63.1257(d)(3)(iii).

45. Cognis failed to keep the bed regeneration temperature of the regenerative carbon adsorber associated with the pharmaceutical manufacturing operations at the plant above the minimum required temperature, as established in Cognis' Notification of Compliance Status Report, on 72 days from May 2003 to September 2004, in violation of 40 C.F.R. §§ 63.158(b)(1)(iv) and 63.1258(b)(8).

46. Cognis failed to have required monitoring data on the carbon adsorber for 6 days during April, June and August 2003, in violation of 40 C.F.R. §§ 63.1258(a), 63.1258(b)(1) and 63.1258(b)(8).

47. Cognis failed to check, by visual inspection, each pump/agitator for liquids dripping from the pump/agitator seal, in violation of 40 C.F.R. § 63.1255(c)(5).

48. Cognis failed to timely identify certain components on the vitamin E line subject to LDAR, in violation of 40 C.F.R. § 63.1255(a)(7).

49. Cognis failed to timely perform in 2003 annual monitoring of valves and connectors subject to LDAR, in violation of 40 C.F.R. §§ 63.1255(e)(2), 63.174(a) and 63.174(b).

50. Cognis failed to timely perform in 2002 and 2003 quarterly monitoring of certain valves and connectors subject to LDAR, in violation of 40 C.F.R. §§ 63.1255(e)(2), 63.174(a) and 63.174(b).

51. Cognis failed to properly implement EPA Reference Method 21 when monitoring certain valves and connectors, in violation of 40 C.F.R. §§ 63.174(a), 63.180(b)(1) and 63.1255(3)(3).

Civil Penalty

52. Based on analysis of the factors specified in Section 113(e) of the Act, 42 U.S.C. § 7413(e), the facts of this case, and Cognis' cooperation in this matter, prompt return to compliance, and agreement to perform the Supplemental Environmental Projects (SEPs) set out below, U.S. EPA has determined that an appropriate civil penalty to settle this action is \$70,000.

53. Cognis must pay the \$70,000 civil penalty by cashier's or certified check payable to the "Treasurer, United States of America," within 30 days after the effective date of this CAFO.

54. Cognis must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

55. A transmittal letter, stating Cognis' name, complete address, the case docket number, and the billing document number must accompany the payment. Cognis must write the case docket number and the billing document number on the face of the check. Cognis must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (E-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

Reginald A. Pallesen
Office of Regional Counsel (C-14J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

56. This civil penalty is not deductible for federal tax purposes.

57. If Cognis does not pay timely the civil penalty, or any stipulated penalties due under paragraph 73, below, U.S. EPA may bring an action to collect any unpaid portion of the penalty with interest, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

58. Interest will accrue on any overdue amount from the date payment was due at a rate established under 31 U.S.C. § 3717. Cognis will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

Supplemental Environmental Projects

59. Cognis agrees to complete two Supplemental Environmental Projects (SEPs) designed to protect the environment and public health by reducing fugitive emissions of Hazardous Air Pollutants from its Kankakee facility. The first SEP is an equipment replacement project. The second SEP is an enhanced Leak Detection and Repair (LDAR) project.

60. At its Kankakee facility, Cognis must complete an equipment replacement SEP as follows:

- a. replace approximately 200 feet of threaded pipe charge line in Area 51 to reduce fugitive emissions of Xylene and Toluene;
- b. replace approximately 215 feet of threaded pipe charge line in Area 71 to reduce fugitive emissions of Xylene, Ethyl Benzene, Methyl Methacrylate, and Styrene;
- c. replace two charge pumps with seal-less pumps in area 51 to reduce fugitive emissions of Xylene and Toluene;
- d. replace two charge pumps with seal-less pumps in area 71 to reduce fugitive emissions of Xylene and Ethyl Benzene; and
- e. replace 11 more pumps at the facility with seal-less pumps to reduce fugitive emissions of Ethylene Dichloride and Methanol.

61. Cognis must spend at least \$300,000 for the equipment replacement SEP.

62. Cognis must submit a SEP completion report for the equipment replacement project to U.S. EPA within two years of the effective date of this CAFO. This completion report must contain the following information:

- a. a detailed description of the SEP as completed;
- b. a description of any operating problems and the actions taken to correct the problems;

- c. itemized costs of goods and services used to complete the SEP documented by copies of invoices, purchase orders, or cancelled checks that specifically identify and itemize the individual costs of the goods and services; and
- d. a certification that Cognis has completed the SEP in compliance with this CAFO.

63. Cognis agrees to perform an enhanced LDAR SEP as follows:

- a. Enhanced Monitoring. Perform LDAR monitoring for connectors, valves and pumps in HAP service at the Kankakee facility, more frequently than required under the LDAR regulations, for a period of two (2) years, beginning on April 1, 2006:
 - i. monitor all connectors at the facility semi-annually, all valves quarterly, all pumps quarterly, and all agitators quarterly;
 - ii. perform monitoring and report results per the requirements of the HON and the Pharma-MACT, 40 C.F.R. 63 Subparts H and GGG, using U.S. EPA Reference Method 21;
 - iii. utilize an instrument that meets Method 21 specifications and is equipped with a data logger which automatically records the emission levels detected at each component and the date and time that each sample is taken. (If an equivalent or superior data recording instrument becomes available, Cognis may request approval to use such instrument.);
 - iv. the LDAR monitoring may be performed by an outside contractor;
 - v. Cognis shall submit a schedule of the monitoring events to U.S. EPA. Cognis may modify the schedule with 15 days advance written notice to U.S. EPA;
 - vi. Cognis shall provide the results of each LDAR monitoring event to U.S. EPA within 60 days after the end of each calendar quarter.
- b. More Stringent Leak Repair Standard. Utilize a reduced leak "repair action level" standard (below the regulatory leak definition) for connectors, valves, pumps, and agitators as follows: 250 ppm for connectors; 250 ppm for valves; 1000 ppm for pumps; and 5000 ppm for agitators. These leak levels will trigger repair as described in the Pharma-MACT and HON regulations at 40 C.F.R. Part 63, Subparts, GGG and H, but are not otherwise applicable for regulatory purposes.

c. Upgrading Components – New Technology.

i. as a “first option” for repair of leaking components, evaluate upgrading valves, connectors and pumps to utilize improved technology, or environmentally enhanced alternatives or processes or technology, to provide improved pollution prevention (such as audits for short-bolting, or other improvements for the different types of components). Each evaluation shall be documented regarding conclusions reached and actions taken.

ii. evaluate upgrading leaking pumps to either double mechanical seal pumps or seal-less pumps to eliminate the need for monitoring these components and to reduce fugitive emissions from them. Each evaluation shall be documented regarding conclusions reached and actions taken.

iii. evaluate more aggressive alternatives as part of a “first attempt” on repair of leaks (such as, for example, “drill and tap” repair technology for valves where there is no risk of product contamination, process interference, equipment damage, an explosion or other hazard or adverse reaction such that the valve would not be placed on the delay of repair list). Each evaluation shall be documented with details of conclusions reached and actions taken. (Implementation of an alternative is not required if the evaluation indicates that the alternative is not feasible or appropriate.)

d. Root-Cause Analysis. Within one year from the date the CAFO is filed, perform an engineering analysis on monitoring results, beginning with results of the June 2004 monitoring through September 2006, to determine potential “root causes” and sources of such leaks, evaluating factors such as:

i. HAP/VOC in-process stream that due to its volatility and/or vapor pressure under certain process conditions has a greater potential to cause a leak;

ii. areas in the process of fluctuating temperature, fluctuating pressure, and/or vibrational movement to determine if the fluctuations and/or vibrating conditions cause or promote leaks in components;

iii. the leak history of components from various manufacturers; and

iv. types of components (e.g., gate valve, check valve, flange) that have leaked two or more times during the period from June 2004 through September 2006.

e. Prevention of Component Leaks. Develop a maintenance and corrective action program, incorporating the results of the Root-Cause Analysis, including processes or technologies that provide improved prevention measures.

f. Reporting. Cognis agrees to provide U.S. EPA with Annual Reports which describe steps Cognis is taking to maintain and ensure compliance with the requirements of the applicable regulations and this CAFO. Each Annual Report will be submitted by October 1st of each calendar year for the two-year period of this CAFO and contain information including the following:

- i. the results of the LDAR monitoring, including individual monitoring data (preferably in electronic form) and the Leak Repair program;
- ii. a description of the equipment leaks reviewed under the Root Cause Analysis, and the steps taken to correct them;
- iii. a summary of any improvements to the monitoring program that Cognis' experience indicates might be helpful in identifying, preventing, reducing and/or repairing equipment leaks; and
- iv. documentation of all evaluations under the monitoring and repair.

64. Cognis must spend at least \$10,000 for the enhanced LDAR SEP.

65. Cognis must submit a SEP completion report for the enhanced LDAR project to U.S.

EPA by June 30, 2008. This completion report must contain the following information:

- a. a detailed description of the SEP as completed;
- b. the results of the LDAR monitoring, including individual monitoring data from the data loggers, (submitted in electronic form on a spreadsheet on a compact disc);
- c. a description of the equipment leaks detected during two-year period, including both leaks above the regulatory leak definition and leaks above the repair action levels set out above; a list of all repairs made, including dates of leak detection, first attempt at repair, and final repair;
- d. a summary of the general root cause review;
- e. an estimate of the costs incurred to implement the Enhanced LDAR SEP; and

f. a certification that Cognis has completed the Enhanced LDAR SEP in compliance with this CAFO.

66. Cognis certifies that it is not required to perform or develop either the equipment replacement SEP or the Enhanced LDAR SEP by any law, regulation, grant, order, or agreement, or as injunctive relief as of the date it signs this CAFO. Cognis further certifies that it has not received, and is not negotiating to receive, credit for the SEPs in any other enforcement action.

67. U.S. EPA may inspect the facility at any time to monitor Cognis' compliance with this CAFO's SEP requirements.

68. Cognis must submit all notices and reports required by this CAFO by first class mail to:

Attn: Compliance Tracker (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3511

69. In each report that Cognis submits as provided by this CAFO, it must certify that the report is true and complete by including the following statement signed by a responsible corporate official or an authorized designee:

I certify that I am familiar with the information in this document and that, based on my inquiry of those individuals responsible for obtaining the information, the information is true and complete to the best of my knowledge. I know that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.

70. Following receipt of each SEP completion report described above, U.S. EPA will notify Cognis in writing within 30 days of receipt of each report that:

- a. it has satisfactorily completed the SEP and the SEP report;
- b. there are deficiencies in the SEP as completed or in the SEP report and U.S. EPA will give Cognis 30 days to correct the deficiencies; or
- c. it has neither satisfactorily completed the SEP or the SEP report, and U.S. EPA will seek stipulated penalties as provided below.

Alternatively, if subparagraph (b) above has been invoked, U.S. EPA will timely notify Cognis in writing, that:

- a. it has satisfactorily cured deficiencies in the SEP or the SEP report; or
- b. it has failed to cure deficiencies in SEP or the SEP report within the allotted time, and U.S. EPA will seek stipulated penalties.

71. If Cognis violates any requirement of this CAFO relating to the SEPs, and has failed to cure any deficiencies as provided above, Cognis must pay stipulated penalties to the United States as follows:

- a. if Cognis fails to complete the equipment replacement and enhancement SEP in a timely manner, as required by this CAFO, including spending at least 90% of the amount specified in paragraph 61 above to implement the SEP, Cognis must pay a stipulated penalty in the amount of \$192,000;
- b. if Cognis fails to complete the enhanced LDAR SEP in a timely manner, as required by this CAFO, including spending at least 90% of the amount specified in paragraph 64 above to implement the SEP, Cognis must pay a stipulated penalty in the amount of \$25,000.

72. U.S. EPA's determinations of whether Cognis completed each SEP as required by the CAFO will bind Cognis. If Cognis disputes U.S. EPA's initial determination regarding completion of a SEP, Cognis must notify U.S. EPA in writing within 10 days of receipt of U.S. EPA's determination. The parties will have 30 days from U.S. EPA's receipt of Cognis' objection to reach an agreement. If the parties cannot reach an agreement, U.S. EPA will give

Cognis a written decision on its objection. Cognis will comply with any requirements that U.S. EPA imposes in its decision. If Cognis does not complete the SEP as required by U.S. EPA's decision, Cognis will pay stipulated penalties to the United States as provided below.

73. Cognis must pay any stipulated penalties within 15 days of receiving U.S. EPA's written demand for the penalties. Cognis will use the method of payment specified in paragraphs 53, 54 and 55, above, and will pay interest and nonpayment penalties on any overdue amounts.

74. Any statement to the general public that Cognis makes referring to the SEPs must include the following language, "Cognis undertook this project under the settlement of the United States Environmental Protection Agency's enforcement action against Cognis for alleged violations of Clean Air Act requirements regarding equipment standards and monitoring for equipment leaks."

Final Statement

75. This CAFO resolves only Cognis' liability for federal civil penalties for the facts and violations alleged in this CAFO, including the periodic reports associated with the allegations in this CAFO.

76. This CAFO does not affect the right of U.S. EPA or the United States to pursue appropriate injunctive or other equitable relief or criminal sanctions for any violation of law.

77. This CAFO does not affect Cognis' responsibility to comply with the Clean Air Act and other applicable federal, state and local laws, and regulations. Except as provided in paragraph 75 above, compliance with this CAFO will not be a defense to any actions subsequently commenced pursuant to federal laws and regulations administered by U.S. EPA.

78. Cognis hereby certifies that, as of the date of this CAFO, it is complying fully with the NESHAP for Pharmaceutical Production and the NESHAP for Equipment Leaks, as applicable, and is properly implementing EPA Reference Method 21.

79. On January 30, 2006, Cognis submitted to U.S. EPA an updated Notice of Compliance Status Report (NOCSR), pursuant to requirements of the Pharma-MACT at 40 C.F.R. § 63.1260(f), regarding the Pharmaceutical Operations at the Kankakee facility. The updated NOCSR established revised operating parameters for the regenerative carbon adsorber associated with the pharmaceutical manufacturing operations at the plant. Cognis hereby certifies that, as of the date of this CAFO, it is complying fully with current operating parameters for the regenerative carbon adsorber.

80. This CAFO constitutes an “enforcement response” as that term is used in “U.S. EPA’s Clean Air Act Stationary Source Civil Penalty Policy” to determine Cognis’ “full compliance history” under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

81. The terms of this CAFO bind Cognis, and its successors, and assigns.

82. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

83. Each party agrees to bear its own costs and attorneys’ fees in this action.

84. This CAFO constitutes the entire agreement between the parties.

CONSENT AGREEMENT AND FINAL ORDER

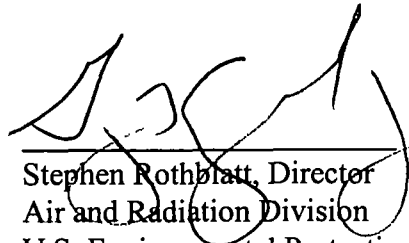
Cognis Corporation

Docket No. CAA-05-2006-0022

U.S. Environmental Protection Agency, Complainant

4/13/06

Date



Stephen Rothblatt, Director
Air and Radiation Division
U.S. Environmental Protection
Agency, Region 5 (A-18J)

ACING

CONSENT AGREEMENT AND FINAL ORDER
Cognis Corporation
Docket No. CAA-05-2006-0022

Cognis Corporation, Respondent

4/3/06
Date

Paul S Allen
Respondent

CONSENT AGREEMENT AND FINAL ORDER

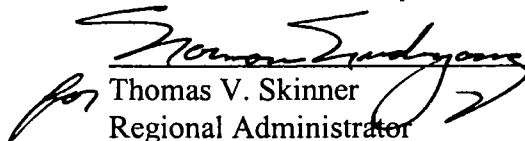
Cognis Corporation

Docket No. CAA-05-2006-0022

Final Order

It is ordered as agreed to by the parties and as stated in the Consent Agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk. This Final Order disposes of this proceeding pursuant to 40 C.F.R. § 22.18.

7/14/06
Date


for Thomas V. Skinner
Regional Administrator
U.S. Environmental Protection
Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3511

Certificate of Service

I, Shanee Rucker, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-05-2006-0022, to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Cognis and Cognis' counsel by placing them in the custody of the United States Postal Service addressed as follows:

Julie Kendall, Environmental Specialist
Cognis Corporation
2525 South Kensington Road
Kankakee, Illinois 60901

Susan V. Harris
Sidley Austin LLP
One South Dearborn
Chicago, Illinois 60603

on the 18th day of April, 2006.

Shanee Rucker
Shanee Rucker
AECAS (MI/WI)

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